

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT (CORRECTED)
LB630

Hearing Date: Monday February 09, 2009
Committee On: Business and Labor
Introducer: Business and Labor
One Liner: Change workers' compensation medical fee and procedural provisions

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Carlson, Council, Lathrop, McGill, Wallman, White
Nay:
Absent: 1 Senator Schilz
Present Not Voting:

Proponents: Molly Burton Glenn Morton James Cavanaugh	Representing: Introducer Nebraska Workers' Compensation Court Creighton University Medical Center
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Opponents: James Michael Fitzgerald	Representing: Self
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Neutral: Rod Rehm	Representing: National Association of Trial Attorneys
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Summary of purpose and/or changes:

LB 630 is introduced on behalf of the Nebraska Workers' Compensation Court:

Section 1 changes the date for reimbursement for inpatient trauma services under the Diagnostic Related Group inpatient hospital fee schedule from January 1, 2010 to January 1, 2011.

Section 2 adds language regarding compensation payments to allow payment by electronic method.

Section 3 strikes language requiring a duplicate original application for lump-sum settlement approval be presented to the court.

Section 4 amends 48-144.03 concerning notice of workers' compensation insurance. Requires that notice by electronic means is not considered given until it is accepted by the court.

Section 5 strikes language that the court must keep records in its State Capitol office.

Section 6 allows vocational rehabilitation counselors to submit disputes for informal dispute resolution. Provides that if the court sent a dispute for informal dispute resolution, it can set a return date no longer than 90 days after the order is signed. Clarifies that any settlement or agreement is voluntary and is not final until approved by the court.

Strikes in its entirety Neb. Rev. Stat. 48-168(2)(b) as it expired on January 1, 2008. Adds language concerning mediators and what information mediators can disclose to the court.

Explanation of amendments:

AM 874 replaces the bill. The amendment removes the new language in section 2 pertaining to electronic payments and section 5 pertaining to court records. Language and/or concepts of LB 194, 243 and 453 are included in the amendment:

Section 1 adds language from LB 453. Amends Neb. Rev. Stat. 48-106 to allow exempted agricultural employers to provide their employees notice that they are not covered by workers' compensation insurance either at the time of hiring or at any time more than 30 days prior to an injury.

Section 2 is section 1 of the green bill. Changes the date for reimbursement for inpatient trauma services under the Diagnostic Related Group inpatient hospital fee schedule from January 1, 2010 to January 1, 2011.

Section 3 addresses the concept of LB 243 which would annually update permanent disability benefit amounts to account for cost of living increases. New language would annually review awards and give the individual either 66 2/3 of his/her weekly wage or the maximum amount as computed in Neb. Rev. Stat. 48-121.01, whichever is less.

Section 4 moves but does not change language requiring that payments be sent directly to the recipient.

Section 5 makes technical changes to conform with section 6.

Section 6 addresses the concept of lump-sum settlements in LB 194.

As originally drafted, LB 194, struck language in Neb. Rev. Stat. 48-138 requiring lump-sum settlements to be commuted only by order of the court. LB 194 would provide that a lump-sum settlement may become final without court approval provided that the employee is represented by counsel. It would retain the requirement for court approval of lump-sum settlements in all cases where an employee is not represented by counsel. The bill also requires a release to be filed with the Compensation Court executed by the employee or his or her dependent's representative, as well as by the employee's attorney, which is a full and complete discharge from further liability for the employer on account of the injury or death.

AM 874 addresses concerns with Medicare and future medical payments. AM 874 requires court approval of lump-sum settlements if: (1) the individual is not represented by counsel, (2) the employee at the time of settlement is eligible for Medicare, is a Medicare beneficiary, or has a reasonable expectation of becoming eligible within 30 months, (3) medical expenses have been paid by Medicaid and Medicaid will not be reimbursed as part of the settlement, (4) medical expenses will not be paid as part of the settlement (5) or in cases of death and payments will be paid to dependents.

A release must be filed with the court if the settlement does not require court approval. The waiver must be signed by the employee and his/her attorney, is a complete discharge of future liability, and must indicate that the employee understands the rights afforded under the Nebraska Worker's Compensation Act including: (1) the right to receive permanent and temporary disability benefits, (2) the right to receive vocational rehabilitation services, (3) the right to receive future medical services, (4) the right to request the judge to decide the parties' rights and obligations, (5) that the employee is not eligible for Medicare, is not a current Medicare beneficiary or does not have a reasonable expectation of becoming eligible, (6) that there are no medical expenses that have been paid by Medicaid and Medicaid has not been reimbursed, (7) that there are no medical expenses that will remain unpaid.

Section 7 makes technical changes to conform to section 6.

Section 8 makes technical changes to conform to section 6.

Section 9 is section 4 of the green bill. Amends 48-144.03 concerning notice of workers' compensation insurance.

Requires that notice by electronic means is not considered given until it is accepted by the court.

Section 10 is section 6 of the green bill. Allows vocational rehabilitation counselors to submit disputes for informal dispute resolution. Provides that if the court sent a dispute for informal dispute resolution, it can set a return date no longer than 90 days after the order is signed. Clarifies that any settlement or agreement is voluntary and is not final until approved by the court. Strikes in its entirety Neb. Rev. Stat. 48-168(2)(b) as it expired on January 1, 2008. Adds language concerning mediators and what information mediators can disclose to the court.

Section 11 repealer.

Section 12 emergency clause.

Steve Lathrop, Chairperson